

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 940 of 2005

Between:

Mohd.Ghouse S/o.Mohd,Abdul Khader, Lab Technician Grade-II,
Osmania General Hospital, Hyderabad.

..... PETITIONER

AND

- 1 The Superintendent, Osmania General Hospital,
Hyderabad.
- 2 The Director of Medical Education, Koti,Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of Certiorari calling for the records relating to the order of Hon'ble A.P.Administrative Tribunal dt 25th November, 2004 in OA No. 8846/2002 and quash the said by holding it as illegal, bad and arbitrary and further declare the orders No. E5/OGH/2002 dt 16-9-2002 as contrary to the rules and well settled principles of service jurisprudence and consequently quash the same and further direct the respondents to consider the case of the petitioner for notional promotion by implementing the proceedings Rc.No. 14674/E4-A/2003 dt 24-8-2004.

Counsel for the Petitioner: MR.J.R.MANO HAR RAO

Counsel for the Respondents: GP FOR SERVICES-I.

The Court at the stage of admission made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for brevity Tribunal) in O.A.No.8846 of 2002, dated 25.11.2004.

2. The petitioner claimed notional promotion to the post of Lab Technician Grade-II. However, while the matter was pending before the Tribunal, the 2nd respondent-Director of Medical Education issued directions on 24.8.2004 directing the 1st respondent to grant notional promotion to the petitioner as per Rules in force. Subsequently another letter was issued by the 2nd respondent on 10.12.2004 directing the 1st respondent to implement the order. After considering the matter, the Tribunal dismissed the above OA on the ground that the petitioner is not entitled for any relief.

3. At the outset it is to be noted that the Government did not bring to the notice of the Tribunal while deciding the matter the factum of communication of the 2nd respondent's letter dated 24.8.2004. Under those circumstances, we find that the relief granted by the Tribunal in the O.A. does not survive any further in view of the orders passed by the 2nd respondent dated 24.8.2004. Hence, we find that the order is not sustainable in law. Accordingly it is set aside and the O.A. is deemed to have been allowed in view of the orders passed by the 2nd respondent dated 24.8.2004.

5. In the result, the Writ Petition is allowed. No costs.

G.BIKSHAPATHY, J.

28th January, 2005.

P.S.NARAYANA, J.

SSR

Issue copy in one week.

(BO)

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar, A.P. Administrative Tribunal, Hyderabad.

2 The Superintendent, Osmania General Hospital,
Hyderabad.

3 The Director of Medical Education, Koti, Hyderabad.

4 2 CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies.